

### **301 KAR 1:132. Sale of live bait.**

RELATES TO: KRS 150.175, 150.180, 150.280, 150.450, 150.485

STATUTORY AUTHORITY: KRS 150.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate creel limits and methods of take, and to make these requirements apply to a limited area. This administrative regulation establishes the requirements under which live bait may be taken, transported, and sold.

Section 1. Definitions. (1) "Asian carp" means:

- (a) Bighead carp;
- (b) Black carp;
- (c) Grass carp; or
- (d) Silver carp.

(2) "Live bait" means the condition the following organisms are in when taken, even though the organism may later be sold as a part no longer living:

- (a) Live bait fishes;
- (b) Crayfish;
- (c) Salamanders;
- (d) Frogs, except bullfrogs;
- (e) Tadpoles;
- (f) Native lampreys;
- (g) Asiatic clams (Genus Corbicula); or
- (h) Any aquatic invertebrate organism.

(3) "Live bait fishes" means rough fishes, except blackside dace, palezone shiner, relict darter, Cumberland darter, and tuxedo darter.

Section 2. Legal sources of live bait. (1) Live bait may be sold by a person possessing a valid:

- (a) Live fish and bait dealer's license if the person purchases the live bait from a legal source as established in this section; or
- (b) Commercial fishing license if the live bait is taken pursuant to the requirements of this section.

(2) Asiatic clams may be taken and sold as live bait by a person possessing a valid commercial musseling license.

(3) Live commercially harvested shad, herring, or Asian carp shall not be transported and sold as live bait.

(4) Dead shad, dead herring, dead Asian carp, or other live bait may be sold whole or in part, if taken pursuant to Section 3 of this administrative regulation.

(5) Legal sources of live bait shall include:

(a) Live bait hatched and reared in Kentucky by a person possessing a valid commercial fish propagation permit;

(b) Legal commercial live bait sources in states outside of Kentucky;

(c) A person selling Asiatic clams obtained from a legal brailing method, if the person possesses a valid commercial musseling license;

(d) A person selling Asiatic clams obtained by means of a tagged commercial bait rake pursuant to Section 3 of this administrative regulation, if the person possesses a valid commercial fishing license; or

(e) A person with a valid commercial fishing license who is selling dead shad, dead herring, dead Asian carp, or live bait, if taken pursuant to Section 3 of this administrative regulation.

(6) A licensed live fish and bait dealer who purchases live bait from legal sources outside of Kentucky shall possess a bill of sale that lists the:

- (a) Date of purchase; and
- (b) Number of each type of live bait purchased.

Section 3. Legal methods of take. (1) A person shall not take live bait from any public waterway or water body for commercial purposes, except as established in this section.

(2) A person who holds a valid commercial fishing license may sell:

- (a) Live bait that was taken with legally set commercial fishing gear;
- (b) Dead shad and dead herring, if taken with a dip net of three (3) feet or less or a cast net with a maximum diameter of twenty (20) feet and possessing a maximum bar mesh of one (1) inch in the following bodies of water:

- 1. Cumberland River below Barkley Dam;
- 2. Kentucky River downstream of Lock Number Fourteen (14);
- 3. Mississippi River;
- 4. Ohio River; or
- 5. Tennessee River; or

(c) Asiatic clams taken in legal commercial fishing waters pursuant to 301 KAR 1:150 with a tagged commercial live bait rake having the following specifications:

- 1. A maximum width of twenty (20) inches;
- 2. A maximum tine length of five (5) inches;
- 3. A maximum distance in between tines of one (1) inch;
- 4. A basket with a maximum:
  - a. Width of twenty (20) inches;
  - b. Length of ten (10) inches; and
  - c. Height of eight (8) inches;
- 5. A rigid handle with a maximum length of twenty (20) feet; and
- 6. The rake does not contain a bridle that would allow dragging.

(3) Any mussel other than an Asiatic clam shall be returned to the water unharmed.

(4) A person shall not possess a commercial live bait rake in a boat that has a musseling brail aboard or attached to the boat.

Section 4. Other requirements. (1) A person, corporation, or other business entity transporting, selling, or possessing live bait for sale in Kentucky shall hold a valid live fish and bait dealer's license and have in possession the license or exact copy thereof when transporting, selling, or holding live bait organisms in Kentucky.

(2) A live fish and bait dealer's license shall not be used in lieu of a fish propagation or transportation permit if these permits are also legally required.

(3) A person, corporation, or other business entity who transports live bait from one (1) state, through Kentucky, to another state without conducting any business in Kentucky shall not be required to have a live fish and bait dealer's license, but shall have a valid Kentucky transportation permit.

(4) A person, corporation, or other business entity is not required to possess a live fish and bait dealer's license if selling live bait as food in establishments licensed by another state agency to sell resale or wholesale food products. (KRWTF-LB2-1; 1 Ky.R. 347; eff. 2-5-75; Am.

4 Ky.R. 125; 227; eff. 12-7-77; 26 Ky.R. 2295; 27 Ky.R. 484; eff. 8-14-2000; 40 Ky.R. 644; 1040; eff. 11-7-2013.)